

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

|                           |   |                    |
|---------------------------|---|--------------------|
| UNITED STATES OF AMERICA, | ) |                    |
|                           | ) |                    |
| Plaintiff,                | ) |                    |
|                           | ) |                    |
| v.                        | ) | No. 3:06-CR-05     |
|                           | ) | (PHILLIPS/SHIRLEY) |
| DAMION BRADLEY JACKSON    | ) |                    |
| LASHONDRA BROOKS,         | ) |                    |
|                           | ) |                    |
| Defendants.               | ) |                    |

**MEMORANDUM AND ORDER**

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This cause came before the undersigned on August 30, 2006, for an initial appearance and arraignment of Defendant Damion Bradley Jackson and a motion hearing on the government's Motion To Continue [Doc. 17], filed on August 10, 2006. Assistant United States Attorney Tracee Plowell was present representing the government. Attorney Bryan Hunt appeared on behalf of Attorney Leslie Hunt to represent Defendant Jackson, who was also present. Attorney Jonathan Moffatt was present representing Defendant Brooks, who was not present at the hearing.

In its motion [Doc. 17], the government requests that the Court continue the August 21, 2006 trial in this case in order for the co-defendant, Damion Jackson to be produced and arraigned on the instant indictment. It notes that: (1) co-Defendant Damion Jackson is scheduled to appear for his initial appearance on the indictment on August [30], 2006; (2) no motion for

severance has been filed in the instant case and the Speedy Trial period has not expired; (3) Defendant Brooks was released on conditions on June 21, 2006; and (4) counsel for Defendant Brooks does not object to the requested continuance.

The Court finds the government's Motion To Continue [Doc. 17] to be well taken and finds that the ends of justice served by granting the motion outweigh the best interest of the public and Defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A). The trial of this matter was originally set for August 21, 2006. The Court notes that Co-Defendant Damion Jackson's initial appearance/arraignment was held on August 30, 2006 and that no motion for severance has been filed in this case and/or granted by the Court. The Court finds that the failure to grant the continuance would result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(B). Accordingly, the Court **GRANTS** the government's Motion To Continue [**Doc. 17**].

In light of these findings and its granting of the motion, the Court set a new trial date of **November 2, 2006**. The Court further finds, and the parties agreed, that all the time between the **August 30, 2006** hearing and the new trial date of **November 2, 2006**, is fully excludable time pursuant to 18 U.S.C. § 3161(h)(1)(F) and and -(h)(8)(A)-(B). Additionally, excluded from the speedy trial calculation is a "reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted." 18 U.S.C. § 3161(h)(7). Under this provision, time excludable as to one defendant is excludable to all codefendants. United States v. Holyfield, 802 F.2d 846, 847-48 (6th Cir. 1986).

With regard to further scheduling, the motion-filing deadline is **September 27, 2006**. Responses are due on or before **October 11, 2006**. The parties are to appear before the undersigned for a pretrial conference on **October 18, 2006, at 2:00 p.m.**

Accordingly, it is **ORDERED**:

(1) The government's Motion To Continue [**Doc. 17**] is **GRANTED**;

(2) The trial of this matter is reset to commence on **November 2, 2006, at 9:00 a.m.**, before the Honorable Thomas Phillips, United States District Judge;

(3) All time between the **August 30, 2006** hearing and the new trial date of **November 2, 2006**, is fully excludable time under the Speedy Trial Act for the reasons set forth above;

(4) A new motion deadline is set for **September 27, 2006**;

(5) Responses are due on **October 11, 2006**; and

(6) A pretrial conference is set for **October 18, 2006, at 2:00 p.m.** before the undersigned.

**IT IS SO ORDERED.**

ENTER:

s/ C. Clifford Shirley, Jr.  
United States Magistrate Judge